

Notice of Proposed Action

The Administrator of the Motor Vehicle Administration proposes to:

- (1) Amend Regulation **.06** under **COMAR 11.11.05 Motor Vehicle Fees**;
- (2) Repeal existing Regulations **.01– .03** under **COMAR 11.11.07 Gratis and Complimentary Records**;
- (3) Amend Regulations **.01 -.07** under **COMAR 11.11.09 Access to Public Motor Vehicle Administration Records**; and
- (4) Repeal existing Regulations **.01 -.05** under and **11.17.10 Drivers' Records**.

Statement of Purpose

The purpose of this action is to redefine, organize, and clarify regulations by repealing duplicative regulations and consolidating and simplifying the regulations relating to disclosure of MVA records, public and private. This action also consolidates all fees relating to records requests under the Public Information Act by removing inaccurate fees and by clarifying specific fees currently being charged for public information requests.

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 11 MOTOR VEHICLE ADMINISTRATION — ADMINISTRATIVE PROCEDURES

Chapter 05 Motor Vehicle Fees

Authority: Transportation Article, §§12-104(b) and 12-301, Annotated Code of Maryland and as cited in Regulations .02—.06 of this chapter

.06 Miscellaneous Fees.

<i>Service</i>	<i>Section</i>	<i>Fee</i>
A. — O. (text unchanged)		
P. Copies of [Motor Vehicle Administration]driver or vehicle records as follows:	12-113	
(1) — (2) (text unchanged)		
Q. (text unchanged)		
[R. In addition to the fees established in §§P and Q of this regulation and as authorized under State Government Article, §10-621, Annotated Code of Maryland, clients requesting records or listing shall pay:	12-112	
(1) A fee for the initial set-up that will vary depending on the cost of software, hardware, etc., necessary for the set-up;		
(2) A \$150 per hour cost for programming and for making changes to existing programs.]		
[S.]R. Restoration of repossessed documents or plates.	12-110	\$25
[T.]S. Nonresident Service of Process	CJ, 6-313	\$61

Subtitle 11 MOTOR VEHICLE ADMINISTRATION — ADMINISTRATIVE PROCEDURES

Chapter 09 Access to Public Motor Vehicle Administration Records

Authority: Transportation Article, §§12-104(b), 12-111—12-113, 16-117, [and]16-118, 16-819, and 16-904; State Government Article, §§10-611[, 10-616, 10-626, and 10-627] *et seq.*; Annotated Code of Maryland

.01 Purpose and Scope.

The purpose of this chapter is to comply with [Chapters 338 and 339, Acts of 1997, effective September 1, 1997, with Chapters 349 and 350, Acts of 1999, effective July 1, 2000,] *the Maryland Public Information Act, State Government Article, §10-611 et seq.* and with the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. §§2721[—2725] *et seq.*), effective September 13, 1997, in order to:

A. — B. (text unchanged)

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Act” means the *Maryland Public Information Act, State Government Article, §10-611 et seq., Annotated Code of Maryland.*

(2) “Administration” means the Motor Vehicle Administration.

[(2) — (4)] (3) — (5) (text unchanged)

(5) “MVA record subscription service” means a service provided by contract between the Administration and authorized entities to monitor and provide conviction data or updates after an initial 3-year record has been purchased.]

(6) “Government agency” means an agency or unit of the federal, state, or local government, including a law enforcement agency.

[(6)] (7) “Noncertified record” means a motor vehicle record provided by the Administration generally used for informational purposes that may or may not be used in judicial proceedings.

(7) “Partial record or listing” means informational data or updates provided by the Administration from its database by using a specific identifier supplied by the requestor.]

(8) — (10) (text unchanged)

(11) “Records” means:

(a) Accident reports;

(b) Administrative hearing records and exhibits;

(c) Alcohol education client records;

(d) Applications and other related documents;

(e) Certificates or other documents issued by the Administration;

(f) Correspondence and reports related to the records listed in §B(11)(a)-(e) and (g)-(m) of this regulation;

(g) Driver improvement client records;

(h) Driver record histories or other related documents;

(i) Financial responsibility judgment case records;

(j) Insurance certification documents and uninsured motorist complaint records;

(k) Vehicle identification numbers;

(l) Vehicle registration records; and

(m) Vehicle titles.

[(11)] (12) “Specific identifier” means personal information that identifies an individual or person of interest including that individual's name, address, telephone number, driver's license number, email address, [vehicle information number, tag or title number,] or any other identifying data or number.

.02-1 Records.

A. Pursuant to Transportation Article, §12-111, Annotated Code of Maryland, the Administration shall keep a record of each application or other document with it and each certificate or other official document that it issues.

B. Pursuant to Transportation Article, §16-117, Annotated Code of Maryland, the Administration shall keep a drivers' record file, which, except as otherwise provided, shall be open for public inspection.

.03 Record Request.

A. (text unchanged)

B. To determine the applicant's eligibility for release of personal information when appearing in person, the applicant shall furnish a driver's license or State identification card and, if the application is for personal information for a different individual, upon request by the Administration, another form of personal identification such as a:

(1) — (2) (text unchanged)

(3) [Maryland State Bar Security Card;

(4)] Law enforcement identification;

- [(5)](4) Government employment identification; or
[(6)](5) Professional license number with the name of the licensing agency.

.04 Record Access.

A. *In General.* Pursuant to Transportation Article, §12-111, Annotated Code of Maryland, subject to § 10-616(p) of the State Government Article, and except as otherwise provided by law, all records of the Administration are public records and open to public inspection during office hours.

B. *Records Not Open to Public Inspection.* Pursuant to Transportation Article, §§12-111, 16-117, and 16-118, Annotated Code of Maryland, the following records are not open to public inspection:

- (1) A driving record entry that is over 3 years old;
- (2) A digital or photographic image or signature;
- (3) A record or notation of probation before judgment;
- (4) A record of a first offense of driving with an alcohol concentration of 0.08 or more under Transportation Article, §16-205.1, Annotated Code of Maryland; and
- (5) Records of the Medical Advisory Board.

C. *Exceptions.*

(1) *Records of Any Age.* Subject to the provisions of §§B, D and E of this regulation and pursuant to Transportation Article § 12-111(b)(3), a driving record entry of any age shall be open to inspection by authorized representatives of any federal, State, or local government agency.

(2) *Photographic Images and Signatures.* A digital photographic image or signature of an individual shall be open to inspection only as set forth in Transportation Article § 12-111, Annotated Code of Maryland.

(3). *Probation Before Judgment Records and Records of a First Offense of Driving With an Alcohol Concentration of 0.08 or More.* A record or notation of probation before judgment and a record of a first offense of driving with an alcohol concentration of 0.08 or more shall be open to inspection only as set forth in Transportation Article § 16-117, Annotated Code of Maryland.

(4) *Medical Advisory Board Records.* Records of the Medical Advisory Board shall be open to inspection only as set forth in Transportation Article § 16-118, Annotated Code of Maryland.

D. *[Individuals' Public Record.] Public Records Containing Personal Information.* Personal information referred to in State Government Article, [§10-616(n)(5)(ii)] §10-616(p)(5)(ii), Annotated Code of Maryland, shall generally be used in conformity with the purposes of State and federal law, as amended, and specifically in compliance with the following statutes:

- (1) Federal Automobile Information Disclosure Act (15 U.S.C. §1231 *et seq.*);
- (2) Motor Vehicle Information and Cost Saving Act ([15 U.S.C. §1901] 49 U.S.C. §32101 *et seq.*);
- (3) National Traffic and Motor Vehicle Safety Act of 1996 ([15 U.S.C. §1381] 49 U.S.C. §30101 *et seq.*);
- (4) Anti-Car Theft Act of 1992 ([15 U.S.C. §2021] 49 U.S.C. §33101 *et seq.*);
- (5) Clean Air Act (42 U.S.C. §7401 *et seq.*); [and]
- (6) *Driver's Privacy Protection Act of 1994 (18 U.S.C. §2721 *et seq.*); and*
- (7) State Government Article, §§10-611[—10-628] *et seq.*, Annotated Code of Maryland.

[B. *Inclusion in Lists.* An applicant desiring personal information shall enter into a contract with the Administration in order to receive information for surveying, marketing, and solicitation purposes under Transportation Article, §12-112, Annotated Code of Maryland.]

.05 Waiver Procedures.

[A.]At the discretion of the custodian, a public record containing personal information may be released to an applicant not otherwise authorized to receive the information [, after the person in interest prohibits disclosure,] when [an] *the* applicant:

[(1) — (3)] A. — C. (text unchanged)

[(a) —(b)] (1) — (2) (text unchanged)

[B. Under Transportation Article, §§12-111, 16-117, and 16-118, Annotated Code of Maryland, the following records are not open to public inspection:

- (1) A driving record entry that is over 3 years old;
- (2) A record or notation of probation before judgment;
- (3) A record of a first offense of driving with an alcohol concentration of 0.08 or more under Transportation Article, §16-205.1, Annotated Code of Maryland; and
- (4) Records of the Medical Advisory Board.

C. Subject to the provisions of §B of this regulation, a driving record entry of any age is open to inspection by:

- (1) The Administration;
- (2) Persons in interest or their attorneys;
- (3) Courts;
- (4) Employers, with written consent from employees or prospective employees;
- (5) Federal, state, or local government agency representatives, including law enforcement officers;
- (6) Persons entitled to review the record pursuant to subpoena;
- (7) Other driver licensing authorities;
- (8) The United States Secretary of Transportation; and

(9) Current and prospective employers, as defined in Transportation Article, §16-803, Annotated Code of Maryland, of drivers required to hold a commercial driver's license.]

.06 Disclosure Denial.

A. *Except as provided in State Government Article, §10-616(p), Annotated Code of Maryland, the Administration shall deny disclosure of personal information and specific identifiers.*

B. Disclosure of [public] personal information may be denied if the custodian determines that the requested information is to be used for purposes other than those specified in State Government Article, §10-616(p)(4)(v) and (5), Annotated Code of Maryland.

C. *Except as provided in State Government Article, §10-616(p), Annotated Code of Maryland, if a record subject to disclosure contains personal information or specific identifiers, the personal information and specific identifiers shall be redacted prior to disclosing the record.*

.07 Disclosure Consent or Withdrawal of Consent.

A. (text unchanged)

B. The consent or withdrawal of consent shall be in writing and mailed or delivered to the Administration's [Driver Records Unit] *Official Custodian*. The request shall include:

(1) — (5) (text unchanged)

C. (text unchanged)

.08 Fees.

A. *Fees for Driver and Vehicle Records. The fees for individual driver and vehicle records shall be as set forth in COMAR Title 11, regulation 11.11.05.06.*

B. *Fees for Copies of Records Requested Under the Maryland Public Information Act.*

(1) *The fee schedule for copying records is as follows:*

(a) *Black and White Copies. The fee for each black and white copy of a noncertified record is 3.5 cents per page if reproduction is made by a photocopying machine within the Administration.*

(b) *Color Copies. The fee for each color copy of a noncertified record is 15 cents per page if reproduction is made by a photocopying machine within the Administration.*

(c) *Certified Copies. If an applicant requests a certified record, an additional fee of \$3 per record shall be charged.*

(d) *Other Reproductions. If records are not susceptible to photocopying (for example, punch cards, magnetic tapes, blueprints, and microfilm), the fee for copies shall be based on the actual cost of reproduction.*

(e) *Minimum Fee Charged. A charge may not be made if the total amount of the fee is less than \$10.*

(2) *Notwithstanding subsection (1) of this section, if the fees for copies, printouts, other reproductions, or certified copies of any record are specifically prescribed by a law or regulation other than the Act or this regulation, the prescribed fee shall be charged.*

(3) *Before copying a record, the custodian shall estimate the cost of reproduction and obtain prepayment of any estimated fee before reproducing the record.*

C. *Fees for Search and Retrieval of Records Requested Under the Maryland Public Information Act.*

(1) *Except as provided in subsection (2) of this section, the official custodian may charge reasonable fees for officials' or employees' time expended searching for requested records or for any time expended preparing records for inspection and copying.*

(2) *The official custodian may not charge any search or preparation fee for the first 2 hours of official or employee time needed to respond to a request for information.*

(3) *The fee schedule for search and preparation is as follows:*

(a) *Computer Programming and Retrieval. The fee for computer programming and electronic retrieval of records is \$250 per hour.*

(b) *Clerical. The fee for clerical time expended for search and retrieval of documents is \$30 per hour.*

D. *Waiver of Fees.*

(1) *Upon request, the official custodian may waive or reduce any fee charged pursuant to the regulation if:*

(a) *When requesting an individual's own driving record, the individual displays identification acceptable to the Administration; or*

(b) *When requesting all other records, the custodian determines that the waiver or reduction is in the public interest, considering, among other relevant factors, the ability of the applicant to pay the cost or fee.*

(2) *Records for Government Agencies.*

(a) *On request, the Administration may provide certified or noncertified records to government agencies without charge.*

(b) *The Administration may provide up to five records to government agency representatives who provide official identification at the time of making the request.*

(c) *Multiple Requests. Requests from government agencies for more than five records without charge shall be made on the agency's letterhead, and shall be addressed to the Motor Vehicle Administration, Custodian of Records, 6601 Ritchie Highway, Glen Burnie, Maryland 21062.*

E. If the applicant requests that copies be mailed or delivered to the applicant, the custodian may charge the applicant for the cost of postage or delivery to the applicant.

JOHN T. KUO

Administrator

Motor Vehicle Administration